IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 6645 of 2007(N)

AGAINST THE ORDER IN I.A. 1717/2001 IN
AS.142/2001 of ADDL. DISTRICT COURT (ADHOC-I), KOLLAM

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PETITIONER:

GOMATHY, THEKKEVELIYIL VEEDU,
MANACADU CHERRY, VADAKKEVILA VILLAGE FROM
SHINKARA MADAM, MULLUVILA CHERRY,
VADAKKEVILA VILLAGE, KOLLAM.

BY ADV. SRI.BABY JOSEPH(B.JOSE)
SRI.P.A.CHANDRAN

RESPONDENTS:

1. SARASWATHY, VELIYIL PUTHEN VEETTIL,
MANACATTU CHERRY, VADAKKEVILA VILLAGE,KOLLAM.

2. SAJIKUMAR, S/O.VASUDEVAN,
VELIYIL PUTHEN VEETTIL, MANACATTU CHERRY,
VADAKKEVILA VILLAGE, KOLLAM.

3. SHYLAJAKUMARI, D/O.VASUDEVAN,
VELIYIL PUTHEN VEETTIL, MANACATTU CHERRY,
VADAKKEVILA VILLAGE, KOLLAM.

4. RESHMI, D/O.VASUDEVAN,
VELIYIL PUTHEN VEETTIL, MANACATTU CHERRY,
VADAKKEVILA VILLAGE, KOLLAM.

5. SHIVARANI, SHINKARA MADOM,
MULLUVILA CHERRY, VADAKKEVILA VILLAGE,KOLLAM.

6. BHARGAVI, SHINKARA MADOM,
MULLUVILA CHERRY, VADAKKEVILA VILLAGE, KOLLAM.

7. SUBHASHINI, SHINKARA MADOM,
MULLUVILA CHERRY, VADAKKEVILA VILLAGE,KOLLAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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W.P.(C)NO.6645 OF 2007

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Dated this the 28th day of February 2007

JUDGMENT

The writ petitioner is the 3rd defendant in O.S.574/86 on the file of Munsiff's Court, Kollam. The said suit was decreed. Petitioner filed an appeal as A.S.142/01 before the District Court, Kollam along with I.A.1717/01 for condonation of delay of 65 months in filing the appeal. The appellate court dismissed I.A.1717/01 vide Ext.P4 order. It was submitted by counsel for the petitioner when the matter came up for hearing that A.S.142/01 is not disposed of by the appellate court though the delay condonation application is dismissed. The registry was directed to ascertain the correctness of the said submission from the concerned court. Report is obtained to the effect that the appeal is dismissed and the order passed is to the following effect:

> "I.A.1717/01 is dismissed. Appeal is barred by limitation. Hence dismissed. No costs".

2. The above dismissal was also on 12.12.2005, the day on which the impugned order Ext.P4 was passed on I.A.1717/01.

Consequently, therefore the remedy of the petitioner is to file appeal against the dismissal of A.S.142/01, if so advised.

This writ petition is dismissed.

K.P.BALACHANDRAN, JUDGE

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